



**PLANNING COMMISSION
CITY OF FREDERICKSBURG, VIRGINIA AGENDA
November 9, 2016
7:30 P.M.
COUNCIL CHAMBERS, CITY HALL**

1. Call To Order
2. Pledge Of Allegiance
3. Adoption Of Minutes
 - 3.I. October 12, 2016 - Regular Meeting

Documents:

[OCTOBER 12, 2016 MINUTES AS EDITED BY PATES.PDF](#)

4. Capital Improvement Plan (CIP) - Update - Deidre Jett, Budget Manager
5. Public Hearing Items
 - 5.I. Unified Development Ordinance Text Amendment - Definitions & Interpretations - To Permit The Manufacture Of Beer, Wine And Spirits, Either By Right Or Special Use Permit, In The Commercial, Planned Commercial, Planned Mixed Use, And Industrial Zoning Districts

Documents:

[UDO TEXT AMENDMENT - BREWERIES, WINERIES, DISTILLERIES.PDF](#)

6. Unfinished Business/Action Item
 - 6.I. Unified Development Orrdinance Text Amendment - Fences - Walls - Lots

Documents:

[DUO TEXT AMENDMENT - FENCES-WALLS-LOTS.PDF](#)

7. General Public Comment Period
8. Other Business
 - 8.I. Planning Commissioner Comment
 - 8.I.i. Planning Commission Annual Report Discussion - Pates
 - 8.II. Planning Director Comment
9. Adjournment



PLANNING COMMISSION MINUTES

October 12, 2016

7:30 p.m.

City of Fredericksburg

715 Princess Anne Street

Council Chambers

You may view and listen to the meeting in its entirety by going to the Planning Commission page on the City's website: fredericksburgva.gov

MEMBERS

Roy McAfee – Chair
Richard Dynes - Vice-Chair, Absent
Jim Pates - Secretary
Jim Beavers
Roy Gratz
Tom O'Toole
Kenneth Gantt

CITY STAFF

Chuck Johnston, Director
Erik Nelson, Deputy Director
Kathleen Dooley, City Attorney
Mike Craig, Zoning Administrator
Marne Sherman, Dev. Administrator

1. CALL TO ORDER

The October 12, 2016, Planning Commission regular meeting was called to order by Chairman McAfee at 7:30 p.m. Mr. McAfee explained the standard meeting procedures.

2. PLEDGE of ALLEGIANCE

3. ELECTION of OFFICERS

- Mr. Pates was unanimously elected as Chair
- Dr. Gratz was unanimously elected as Vice-Chair
- Mr. Beavers was unanimously elected as Secretary

4. ADOPTION of MINUTES

- August 31, 2016 - Regular Meeting: Adopted, as edited by Mr. Pates.
- September 14, 2016 – Regular Meeting: Adopted.

PUBLIC HEARINGS

5. **SUP2016-07** - Blanton and Betty Massey (owners), request a special use permit for a bed and breakfast (B&B) at 1517 Caroline Street (GPIN 7789-07-6402) in the R-2 Residential (R2) Zoning District. The Comprehensive Plan designates the area where the subject property is located as 'Low Density Residential,' which recommends residential development at two units per acre.

Mr. Craig presented the staff report on the application.

Mr. Pates said he did not see anything in the material provided to Commissioners that this particular application would be operated under "Airbnb".

Mr. Craig said that it is his understanding that this is more of a traditional Bed and Breakfast. However, he said he does not know whether one would advertise under "Airbnb" and that there really is no difference between an Airbnb and a B&B being sought in the City of Fredericksburg. He said the Unified Development Ordinance regulations are the same for both, no matter what type of Bed and Breakfast it is.

Mr. Pates noted that the Planning Commission had recently considered a different B&B application and it was understood that the City was undertaking a study regarding B&B's and that in light of what the General Assembly may do, City staff was going to come back to the Planning Commission with a report, tentatively set for October. He asked the status of this study/report.

Mr. Craig said staff continues to work on this study and hope to have something ready to report to the Commission in another month or so. He said what staff is focused on right now is a "Home Occupation Provisional Use Permit for a Home Stay," which is a mechanism that Charlottesville is using and that is an administrative-type permit for smaller bed and breakfast types of uses.

Mr. Pates said then that would not be a Special Use Permit.

Mr. Craig said no sir, it would not.

Mr. Pates said then they would be treated differently [than they are today].

Mr. Johnston said yes, by size. He said he thinks that the distinction of whether something advertizes on the Web and considers itself an Airbnb versus one that does not advertise on the Web is a distinction without much difference from a land-use perspective. So, he said, whether they call themselves an "Airbnb" or don't call themselves an "Airbnb," it is still temporary overnight-guests [lodging] in a single-family residential home on a very modest level, and what Mr. Craig's research has shown is it is extremely modest – one, two, three-bedrooms, that it

is treated as a home occupation and treated administratively. He said staff will of course discuss other processes that communities are following but this is just one example of how these types of uses are being handled.

Mr. Pates asked staff if, in consideration of this issue, they are looking into any other additional regulations relating to "Airbnb" uses.

Mr. Craig said this is a good question and read a few highlights from the permit used in Charlottesville that allows for permits to be revoked if the "Airbnb" does not follow specific guidelines. The sample permit also calls for safety measures such as working smoke detectors, carbon monoxide detectors, and fire extinguishers being accessible to overnight guests at all times. It also includes admittance for City inspectors to the subject property upon advance, written notice, at least one time during the calendar year. Also there could be a cap on the number of rooms and guests. These, he said, are all things that we are looking into and will present to the Planning Commission at a later date.

Mr. Pates said he thought this was all very interesting and believes it is a good project for the City to be looking at these types of issues. However, he said, by considering this application tonight, before we have had a chance to consider some sort of additional measures for these kinds of establishments, he asked if staff would be amenable to a provision for this application that it would need to comply with whatever the City ultimately determines?

Mr. Johnston said the City cannot impose regulations on particular applications that have not yet been adopted by City Council.

Mr. Pates asked: Then why approve something when the City may soon adopt something that has different rules?

Mr. Johnston said we do not know that the rules will be different or even whether City Council would adopt new regulations. He said of course staff is talking about it and proposing some changes but there is no way to guarantee these changes will happen. He said the Commission has been asked to look at the merits of this application based on the regulations as they are written today and he believes that is all that one should reasonably do.

Mr. Beavers confirmed that approval of the Special Use Permit would run with the land and if the owners decided to move, it could continue to change ownership as a B&B until such time that it is not utilized for this use after two years.

Mr. Craig said this was correct. As long as the use is not discontinued for more than two years, it would be permitted as a B&B.

Mr. Johnston reminded Commissioners that with one previously-submitted bed and breakfast [application], the City Council chose to impose a sunset clause of three years because it was a newly-established B&B and that [the Council] was aware that the General Assembly might impose changes in regulations for B&B's. However, he said, the Commission reviewed another Bed and Breakfast application at last month's hearing and decided it did not want to impose a sunset clause.

Dr. Gratz asked if the subject bed and breakfast was already in existence and attempting to come into compliance, or whether it was a new one.

Mr. Craig said the subject bed and breakfast is a new business, which will not operate until permits are issued.

Dr. Gratz questioned that there is no requirement to have a bathroom for each guest room of the B&B.

Mr. Craig said there was no such requirement.

Mr. McAfee called on the applicant and asked if he had anything further to add.

Mr. Blanton Massey (applicant), 1517 Caroline Street, said that he and his wife intend to rent only to families who would not mind sharing a bathroom, such as a husband, wife and children. He also said he would be charging a pretty high fee since he is located within the Historic District and has a swimming pool for guest use. He added that he does not believe there are enough B&B's in the Fredericksburg downtown area.

Mr. Pates asked Mr. Massey if it was his understanding that this would only be operated as a bed and breakfast while he continued to occupy the home as his principal residence.

Mr. Massey said yes, he understands he must live in the residence in order to operate the bed and breakfast.

Mr. McAfee opened the floor for public comment.

PUBLIC COMMENT

Ms. Connie Truslow – 8320 River Road, 22407. She said she and her husband own the home at 1600 Caroline Street and that her son currently lives there. She said her main concern is about parking. She asked how Mr. Massey intends to ensure that the two parking spaces in front of his house will be there for his guests to park.

Mr. McAfee asked what the feeling was of staff regarding the adequacy of parking on site.

Mr. Craig said the [draft] ordinance for "Airbnb's" requires two parking spaces for the dwelling use and staff believes the property's driveway has ample room for two vehicles to fit well. He said the owners also have approximately 60 feet of street frontage, which will also accommodate two parking spaces in front of their house. He said that staff believes there is ample parking for this use for what the ordinance requires.

Mr. McAfee asked if there is any attempt being given to include this part of Caroline Street in the permit parking that the City oversees.

Mr. Craig said, no, not that he is aware of.

Mr. McAfee closed the public hearing on this item.

Mr. Pates made a motion to approve the application for a special use permit to operate a bed and breakfast at 1517 Caroline Street to include the four conditions listed on the staff report, and to add a fifth condition: "that the special use permit will sunset two years from the date of issuance." He said he had no doubt whatsoever that the applicant would run a fine establishment but had legitimate concerns about B&B's, and he personally believes there should be protections in place. He said that after two years, the applicant can come back and comply with the ordinance in place at that time. He said the larger issue is if other people come in to operate these B&B's and don't run such a reputable establishment, once the special use permit has been issued to the previous owners. He added that there are legitimate concerns regarding the proliferation of these types of uses, no matter what you want to call them, and it makes sense to have some sort of protections in place.

Mr. McAfee said he believes the City puts a lot of effort and money into trying to get people to come here on short-term stays.

Mr. McAfee asked if there was a second to the motion on the floor.

Mr. Beavers said he would like to first ask a question of the applicant. In thinking about the motion proposed by Mr. Pates, Mr. Beavers asked how long it would take the applicant to get "up and running".

Mr. Massey said he believes it should take no longer than 60 days.

Mr. Beavers seconded the motion.

Mr. Gantt said he is somewhat concerned about putting a sunset clause on the approval of this application when, just at the last Planning Commission meeting,

it was agreed by Commissioners that they did not want to [impose] a sunset clause. He said he is very concerned with projecting something is “going to happen” down the line and that this application must be reviewed based on the merits and ordinances that currently exist.

Mr. McAfee asked the City Attorney whether, if the City Council adopts a stricter ordinance [in the future], the previously-approved B&B's would be required to comply with the new ordinance.

Ms. Dooley said if the City Council adopts a stricter ordinance in the future, the current B&B's would be “grandfathered” under the regulations that existed at the time of approval.

Mr. Gantt proposed a substitute motion. He made a motion to recommend approval of the special use permit for a B&B operation at 1517 Caroline Street to include the four conditions outlined on the staff report and to add a sunset clause of three (3) years. He stated that the reason for a three-year sunset clause was because this is what the Council imposed on another B&B it recently approved.

Mr. Pates withdrew his motion, which contained the two-year sunset clause.

Mr. O'Toole seconded the motion made by Mr. Gantt.

Mr. McAfee called for the vote.

Motion carried by a unanimous vote of 6 - 0

6. The City of Fredericksburg proposes amendments to:

- a. The 2015 Comprehensive Plan, to designate Land Use Areas 1 through 8 and 10 as areas that are appropriate for revitalization, are served by mass transit, include mixed-use development, and permit a density of 3.0 floor area ratio in a portion thereof; and to establish policies requiring adequate public facilities and services; and
- b. The Unified Development Ordinance of the City Code, to permit non-residential development with a 3.0 Floor Area Ratio as a Special Use in the Commercial-Shopping Center, Commercial Highway, Planned Development-Commercial, and Planned Development-Medical Center Zoning Districts.

The effect of these amendments will be to exempt land within the designated Land Use Areas from proffer reform legislation adopted by the 2016 Virginia General Assembly. The proffer reform legislation restricts local authority with respect to proffers or proffer amendments for a new residential development or a new residential use.

Mr. Nelson presented the staff report.

Mr. McAfee confirmed that the General Assembly has identified unique situations, such as those that exist in the City of Fredericksburg, and given us a way to exempt ourselves from this legislation and we are now taking advantage of that in the best way we are able.

Mr. Nelson said this is correct and that it is also giving the City the opportunity to put it in writing in a much clearer way.

Mr. Beavers asked if there are any negative consequences for the City taking this route.

Ms. Dooley said, no. She said she does not see any negative consequences. She said she believes it is important that the analysis is correct and she would review it substantively. She said the question is whether the Planning Commission agrees that these land use areas are in fact land areas where revitalization is a goal; that are served by mass transit; where FAR of 3.0 is appropriate; and where mixed-use development is correct. If, substantively, those facts are correct and that indeed it is our vision for the City, then she said she does not see a down-side in so stating in the Comprehensive Plan. She said the General Assembly did establish this "safe harbor" for more urbanized areas such as Fredericksburg.

Mr. Johnston said he wanted to follow along with what Ms. Dooley was saying and to look specifically at the criteria. He said if you look at the staff report, it does add substantial justification of why we believe that the various sub-areas are appropriate for revitalization.

Mr. Pates commended staff on crafting a plan that allows the City to stay in the proffer business and said he hopes to see the City continue its efforts to develop a proffer policy if this ordinance is adopted by City Council. He asked what an example would be of something that has a roughly 3.0 FAR on a commercial property.

Mr. Johnston said he believes the simplest example would be the Courthouse.

Mr. Pates said that is exactly what concerns him. By doing this, we are not just amending the Comprehensive Plan but we are also amending our zoning ordinance (UDO), so that in all of these districts where land is currently zoned for some type of commercial use, we are saying, basically, that you can fill that land up by obtaining a special use permit with something as dense as the courthouse. He said he questions whether the City really wants to do that city-wide.

Mr. McAfee said as a city, one would want increased density. He said the trend in the past has been sprawl and that is what the City is trying to get away from. He said we want increased density and want to see individual pieces of land used as efficiently as possible. He said he does not see the 3.0 FAR as a problem.

Mr. Johnston said he believes that once City Council acts on this, a proffer policy will be the very next step. He reminded Commissioners that there had been some work done on a proffer policy but that this might need to be backed up "a couple steps" because the parameters have changed slightly. He said it is his hope that a proffer policy will come forward within a matter of months after this moves forward.

Mr. Gantt said that in going along with what Mr. McAfee was saying earlier, he said that even though we have this in the ordinance, it is for flexibility purposes. He said we don't want to have something that limits the City too much and we are talking about commercial properties here. He said he would agree with Mr. McAfee's comments.

Dr. Gratz noted that there is no recommended increase in FAR for the C-T Commercial Transitional zoning district.

Mr. Johnston said the Code allows it to be a portion thereof. He said you don't have to allow it in every commercial area and that it can be just one spot within that area where we allow it. He added that the C-T zoning district is intended to be a transitional zone and a less intense commercial zoning district. He said every other planning area has at least one of these zoning districts so there was not a need to even discuss putting it in the C-T district.

There were no additional Planning Commissioner comments.

Mr. McAfee opened the floor for Public Comment.

There was no public comment.

Mr. McAfee closed the floor to public comment and asked if there as a motion.

Mr. Gantt made a motion to recommend approval of the proposed Comprehensive Plan and Unified Development text amendments, as outlined by staff.

Dr. Gratz seconded the motion.

Mr. Pates said he intends to vote for this but that he remains concerned whether the City wants a lot of this [more intense development] in the City. He said the intent is good and hopes the City Council looks at the amendments very carefully.

Motion carried by a unanimous vote of 6 – 0.

7. The City of Fredericksburg proposes amendments to the Unified Development Ordinance of the City Code to change fence regulations. The amendments:

- a. To provide additional flexibility for fences on corner lots and through-lots;
- b. To decrease permitted fence heights from six feet to four feet in the front yard of all lots zoned Commercial;
- c. To authorize the Board of Zoning Appeals to issue special exceptions from fence-height regulations in any front yard (including a secondary front yard on a corner or through-lot);
- d. To prohibit the use of barbed wire or razor wire, except in an Industrial district; and
- e. To clarify terms, figures, measurements, and tables related to sight triangles, lot types, required yards, and building fronts on lots in all zoning districts.

Ms. Sherman presented the staff report on the proposed amendments, as well as a brief slide show depicting different scenarios of various fence heights.

Mr. Beavers asked for confirmation that once this Ordinance becomes effective, if people wishing to install a taller fence than what is permitted would be required to go to the BZA for approval.

Ms. Sherman said yes, that is the catch for more [unusual] cases for lots that would not meet the first proposed change, in residential, commercial, and planned-development residential districts where lots back up to one another. She provided examples of circumstances where certain exemptions from the stricter height limit would be permitted.

Mr. O'Toole asked if this impacts the "type" of fencing [used].

Ms. Sherman said it does in two ways. First, the City is proposing a limitation on the use of barbed wire and similar fencing in every zoning district, except

industrial. The other would be in the context of a special exception request, [where] the BZA can and should take into consideration the fence material/type.

Mr. Pates asked that slide "Article 8" be brought back up on the screen. He said what you are doing is creating a new term called a "secondary front yard." He said he thought it used to be called a "side yard."

Ms. Sherman said the Code (and this figure in today's Code) has been consistently shown as a front yard. On corner lots and through-lots, any lot line you have adjoining a street creates a front yard, which was the same in the current Code.

Mr. Pates asked why the staff is proposing this change in the Code.

Ms. Sherman said the change is to allow for taller fences in areas with special circumstances. She said several Council members were approached by constituents seeking this change and so staff was tasked with determining when it might be appropriate to allow taller fences.

Mr. Pates said he thought that, previously, anyone could place a four-foot fence in the front yard on all sides, back to the front of the house and then, from that point back, fences were permitted up to a six-foot height limit. He said that what the diagram is showing is that on the side of the house, a fence is only permitted to be four feet in height because it abuts a street.

Ms. Sherman said that is correct.

Dr. Gratz noted that the proposed change is to allow citizens to appeal to the BZA for additional height by filing for a special exception. He asked why this process would not come before the Planning Commission.

Ms. Sherman said it would be a similar process as a variance request. Fences are approved administratively and if the staff determines that a fence application is not in conformance with the Code, the applicant for the fence may take their case to the BZA.

Mr. McAfee said if he were able to write one rule within the City, six-foot fences would not be permitted anywhere within the City limits.

Mr. McAfee opened the floor for public comment.

There was no public comment.

Mr. McAfee closed the floor to public comment.

Mr. Pates noted that if there's anything that will get neighbors upset, it is fences. He said he is not ready to vote on the proposed changes and that he would prefer to have the opportunity to look over the proposed changes more thoroughly. He noted for the record that most Commissioners had not received their packets in a timely manner and a couple (including himself) had not received them at all prior to the meeting. Therefore, he made a motion that this item be tabled until the Planning Commission has had ample time to review the changes and arrive at an informed decision.

Mr. Beavers seconded the motion.

Mr. McAfee called for the vote.

Motion carried by a vote of 6 – 0.

Ms. Sherman asked if there was additional information that the Planning Commission would like to receive from staff.

Dr. Gratz asked staff to look at whether the special exception for additional fence height should come before the Planning Commission instead of the BZA.

Mr. Pates asked if the Planning Commission could get together and ride around town to look at different fence scenarios.

Ms. Sherman said she has a "tour" route that she has taken members of City Council on to view different scenarios and that she would be happy to organize a few tours for Commission members. She said she would send an e-mail to Commissioners offering dates and times of tours that would include two members of the Commission at one time.

GENERAL PUBLIC COMMENT

- b. A general public comment period is provided at each regular meeting for comments by citizens regarding any matter **related to Commission business that is not listed on the Agenda for Public Hearing**. The Chair will request that speakers observe the **three-minute time limit** and yield the floor when the Clerk indicates that their time has expired. No dialogue between speakers will be permitted.*

Mr. McAfee opened the floor for General Public Comment.

There were no speakers.

Mr. McAfee closed the General Public Comment period.

OTHER BUSINESS

8. Planning Commissioner Comments

Dr. Gratz thanked Chairman McAfee for his dedication to the citizens of Fredericksburg and many years of service on the Planning Commission.

Mr. McAfee read a prepared statement about what he believes the role to be of a Planning Commissioner. He offered advice and thanked City Council for allowing him to serve the wonderful citizens of Fredericksburg for such a long time. **(ATTACHMENT A)**.

(Mr. Johnston presented Mr. McAfee with a City shirt).

9. Planning Director Comments

Mr. Johnston reminded Commissioners that the Budget Manager will be present at the November meeting to begin discussions regarding the Capital Improvements Plan.

Mr. Johnston informed Commissioners of future applications, and informed those present that the StreetSense report is available on the City's Website. Mr. Pates asked that the staff provide Commissioners with a copy of the StreetSense market analysis in their packets for the next meeting.

ADJOURNMENT

ATTACHMENT A

A Planning Commissioner

While future is the business of planners, a planning Commissioner should not predict. A Planning Commissioner should direct, based on the will of the people as vetted and adopted in the Comprehensive Plan and officially associated documents.

As the repository of much and varied public input as well as the consensus on municipal growth the Comprehensive Plan serves as the main instrument of advisory. In updating and revising the Comprehensive Plan a Planning Commissioner should seek as a group and independently as inclusive public input as possible.

A Planning Commissioner should use their own experience and expertise to help interpret and compare applications and issues to the Comprehensive Plan. To this end it is imperative that Council appoint a variety of experience and talent and that the Commissioner obtain certification as soon as possible. A Commissioner should continue their municipal education in the direction that complements their particular interest and expertise in order to bring forward and make real the goals and initiatives that turn the Comprehensive Plan into our future.

Zoning and ordinance, so much a part of the Commission's consideration and work, has undergone much change in the last ten years. Indeed our entire understanding of zoning in a traditional urban environment has grown at a national level. We now realize we cannot maintain or rebuild the types of environments in our core that are treasured and essential to our character with 20th century zoning. Changes in demographics, economics, transportation and technology continue to expose ordinance that restrict desired growth.

Municipal rules and regulations should be few, easy to understand and administrate. The overarching rule should be to enable the visions, goals and initiatives of the Comprehensive Plan. In considering new or revising ordinance, think simple. Create a structured environment of tolerance that enables growth of existing citizen, business and infrastructure. Those you wish to join you will be attracted to this atmosphere.

Finally a commissioner should constantly do 3 things;

- Keep an open mind. Personal agendas are secondary to stewarding the municipal public will.
- Seek as much information as possible and continue to do so until the question is called.
- Render a decision for your grandchildren. Everyone in the room may well fade away before the results of your decision do.

Now, I would like to enumerate a few personal opinions formed over the past ten year on this Commission.

Traditional urban environments are built on inclusion and interconnectivity. Ancient urban layouts demonstrate varied building mass, type and use within a neighborhood. Inclusion in housing means varied size and economic levels within a block. In business, inclusion means services, vendors, and makers operating within the walkable community.

The health, resilience and growth of a municipality will reflect the level of interconnectivity within and without the neighborhoods. Interconnectivity best exist at all levels and modes of transportation. Roads should not often cul-de-sac or dead end. There is nowhere in a city this size you should not be able to walk to and through. Gates and other exclusionary devices do not promote connections. Mass and public transit should be given priority in an urban core.

Sidewalks are how we connect our neighborhoods. We must improve the amount, condition and maintenance of these links from our front doors to the rest of the City. Our alleyways are an underutilized green asset and alternative connection.

Temporary and portable vendors in key areas promote interaction, decrease the need for mechanized travel, increase the tax base, and provide incubation and growth to local business. Identify areas and opportunities for these kiosks and vendor carts both within our core in other intensely used areas.

Porches are another way in which the citizen and building connect with the public. Porches should face the main pedestrian way. Porches need to be at least six feet deep to function well. Porches are a sustainable way to increase quality of life by adding usable outside living area, protecting entrances, doorways, and windows.

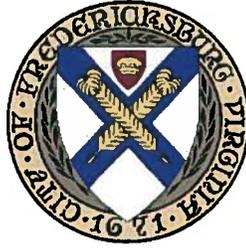
Focal points at visual terminus promote a sense of scale and community increasing the daily enjoyment of life. Traditionally, important, large or impressive buildings are built at the ends of avenues. Promote such vistas to establish a level of quality and promote community pride.

Art corridors may be a quick and inexpensive way to revitalize a neighborhood. Temporarily giving administrative flexibility can promote low cost housing and artist/maker spaces as incubation areas and can support other incremental improvements in areas that are slow to redevelop. *Indy art* areas can create color and subject that minimize blight and create a more attractive area for resident, tourist, and prospective cutting edge business.

Auto-centric design should not be the priority in a traditional urban area. Street and building design should encourage pedestrian activity and safety while mingling modes of transportation. Traffic should be calmed with two way streets where ever possible. Mechanized traffic in an urban core should be slowed to a maximum of 20 mph.

Cross walks and traffic control devices that promote an atmosphere of us and them should be minimized. The concept of "Shared space" should be applied in your core urban area. This practice reduces pedestrian/auto conflict, injury, related deaths, emissions, fuel consumption and time between destinations while promoting inclusion of driver and passenger with the community they are in.

I have joked that volunteering as a Planning Commissioner was my penance for losing the 2006 Council election. However, it has been a blessing. I have enjoyed working with staff and citizens. I have treasured opportunities to improve process and product. I have voraciously soaked up reams of printed material. I have seen good intentions go bad and failures become success. I humbly and happily offer here my ten years of experience as a Fredericksburg Planning Commissioner. I thank our elected officials for their faith in me. Our grandchildren will be the final judges.



MEMORANDUM

TO: Chairman Jim Pates and Planning Commission Members
FROM: Mike Craig, Zoning Administrator
DATE: November 2, 2016 (for the November 9, 2016 meeting)
RE: Proposed Unified Development Ordinance Text Amendment– Breweries, Wineries, Distilleries

ISSUE

Shall the City Council amend the Unified Development Ordinance to define and locate different levels and types of Alcoholic Beverage Production facilities in commercial, industrial, and planned development zoning districts?

RECOMMENDATION

Motion to recommend approval of the text amendment to the City Council.

BACKGROUND

Attached is a proposed amendment to the UDO to revise the provision for brewery, winery, and distillery uses in the City of Fredericksburg. The amendments recognize that the post-Prohibition industrial/manufacturing character of the production of beer, wine, and spirits is no longer the sole model, with the emergence of lower-volume specialized production facilities, paired with traditional commercial character (retail sales, restaurants, events) starting in the 1990s. This new business model is appropriate and indeed desirable in many areas of the city. The amendments distinguish the new uses by (1) production volume and (2) commercial character – especially the on-premises sales or consumption of the product – and distribute these uses in the appropriate commercial zoning districts, either by-right or by special use permit. The City’s ordinances need to be updated to keep pace with changes in the marketplace.

The Fredericksburg Regional Alliance (FRA) and the City’s Economic Development staff have identified and are marketing several sites in the City’s Commercial, Industrial, and Planned Development zoning districts for different types of breweries, wineries and distillers that would require a Special Exception to operate. Also, the City’s existing definitions and use regulations do not reflect the emerging craft alcohol production industries; the City’s definition of a microbrewery currently has no upper production limit or use standards associated with the use. This means that a fairly intensive use can be developed by-right adjacent to residential areas without appropriate safeguards or protections for surrounding uses.

Below is a summary of the proposed amendment to the UDO.

1. *Creating the alcoholic beverage production use category.*

The proposed update establishes a new Use Category in the Use Table called Alcoholic Beverage Production. The microbrewery use is proposed to be moved into this category. The Use Types within the category will be stratified by intensity. Intensity is based on commercial character and annual production. The different levels of Use Type built within this Use Category are proposed to be microbrewery, craft, and regional. The most intense types of alcohol production are proposed to be clearly defined in the Heavy Manufacturing Use Type, which is proposed to remain in the Manufacturing Use Category.

2. *Defining and interpreting new uses within the use category.*

The proposed update amends the definition of Microbrewery to establish production levels up to 10,000 barrels per year (a barrel is 31 gallons). This is in accordance with Virginia Alcoholic Beverage Control (VABC) licensing limits and establishes that the beer produced at the facility will primarily be sold or consumed on-site in an accessory commercial area.

The proposed update defines Craft Brewery as a brewery producing from 10,001 to 30,000 barrels with on-premises retail sales or consumption of at least 25% of the beer produced required in an accessory commercial area. The proposed update similarly requires 25% of wine or spirits to be sold in an on-site accessory commercial area within the proposed Craft Distillery and Winery but sets their production limits at 5,000 gallons in accordance with VABC licensing limits.

The proposed ordinance defines Regional Brewery as a brewery producing from 30,001 to 250,000 barrels of beer and requires an accessory commercial use but no required amount of on-site consumption of the product. The proposed ordinance similarly defines Regional Distillery and Winery but sets their production limits from 5,001 to 36,000 gallons in accordance with VABC licensing limits.

The proposed update amends the definition of Heavy Manufacturing to include breweries producing more than 250,000 barrels annually and wineries or distilleries producing more than 36,000 gallons annually.

The proposed update defines Barrel, Beer, Spirits, and Wine as prescribed in Code of Virginia Title 4.1, Alcohol Beverage Control Act, § 4.1-100, "Definitions."

It also creates a new section in § 72-83 Use Classification, Categories, and Use Types to add the Alcoholic Beverage Use category and explanations and examples of each use type.

An exhibit is attached to this memo containing examples of these different types of uses in order to help illustrate each type of use.

3. *Allocating and regulating the newly defined uses.*

The proposed amendment allocates the micro, craft, and regional into the commercial and industrial zoning districts in accordance with the following chart:

Use Category	Use Type	CT	CD	CSC	CH	I1	I2	PDC	PDMU
<i>Alcoholic Beverage Production</i>	<i>Microbrewery/taproom</i>		P	P	P	P	P	P	P
	<i>Craft brewery</i>		S	S	S	S	P	S	S
	<i>Craft distillery</i>		S	S	S	S	P	S	S
	<i>Craft winery</i>		S	S	S	S	P	S	S
	<i>Regional brewery</i>						S	S	
	<i>Regional winery</i>						S	S	
	<i>Regional distillery</i>						S	S	
	<i>Heavy Manufacturing</i>						S		

The proposed amendment assigns use standards to the micro, craft, and regional level uses. Microbreweries are proposed to comply with the following standards:

- (1) A copy of the current Virginia ABC license shall kept on file with the Zoning Administrator.
- (2) No outdoor storage is permitted.
- (3) No outdoor events are permitted on the premises without an approved minor site plan, which shall show the event date, time and location; frequency; improvements; outdoor amplification systems; food trucks; and maximum occupancy, in addition to other information required for an evaluation of the minor site plan.

Craft level uses are proposed to comply with the following standards:

- (1) A copy of the current Virginia ABC license shall kept on file with the Zoning Administrator.
- (2) No outdoor storage is permitted.
- (3) No outdoor events are permitted on site without an approved minor site plan, which shall show the event date, time and location; frequency; improvements; outdoor amplification systems; food trucks; and maximum occupancy, in addition to other information required for an evaluation of the minor site plan.
- (4) The location of any loading dock is subject to approval by City Council or the Zoning Administrator, as appropriate.
- (5) In considering a special use application, the City Council shall consider whether existing public water and sanitary sewer conveyance and treatment facilities are adequate for the proposed use.

Regional level uses are proposed to comply with the following standards:

- (1) A copy of the current Virginia ABC license shall kept on file with the Zoning Administrator.
- (2) Outdoor storage shall conform to the standards for outdoor storage as a principal use.
- (3) No outdoor events are permitted on site without an approved minor site plan, which shall show the event date, time and location; frequency; improvements; outdoor amplification systems; food trucks; and maximum occupancy, in addition to other information required for an evaluation of the minor site plan.
- (4) In considering a special use application, the City Council shall consider the proposed location of a loading dock and whether existing public water and

sanitary sewer conveyance and treatment facilities are adequate for the proposed use.

CONCLUSION

The Unified Development Ordinance needs to be updated to keep pace with changes in Virginia's brewing and distilling economy. The ordinance needs to better define breweries, wineries, and distilleries and those uses should be differentiated by their production levels and commercial nature. Additional regulations need to be added to the uses in order to ensure that the uses remain in harmony with surrounding residential, commercial, or industrial uses. The Planning Commission should recommend approval of the proposed update to the Unified Development Ordinance attached to this memo.

ATTACHMENTS

1. Draft ordinance
2. Exhibit – Comparable Alcoholic Beverage Producers
3. Resolution initiating amendment

EXHIBIT – COMPARABLE ALCOHOLIC BEVERAGE PRODUCERS

1. Triple Crossing – Downtown Richmond (Comparable: Core Caroline / Princess Anne / William Streets)

Licensing – Micro 500 – 10,000 barrels

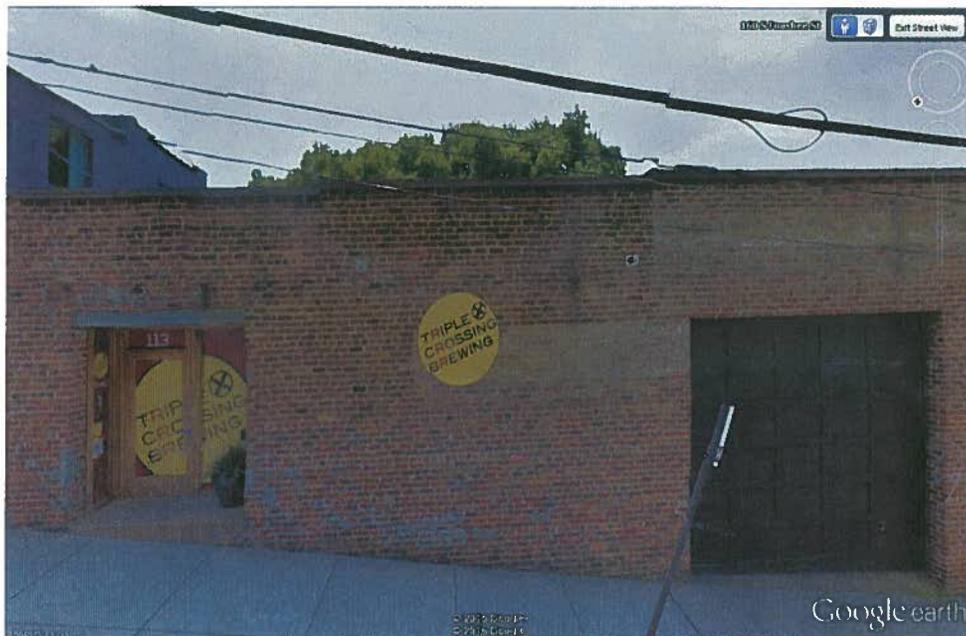
Location – Downtown Richmond

Building size – 2,700 +/- sf

Loading facilities – Yes

Accessory uses – Tasting room and outdoor events

Parking – 9 spaces



2. South Street Brewery – Charlottesville, Downtown Mall (Comparable: Core Caroline / Princess Anne / William Streets)

Licensing – Micro 500 – 10,000 barrels

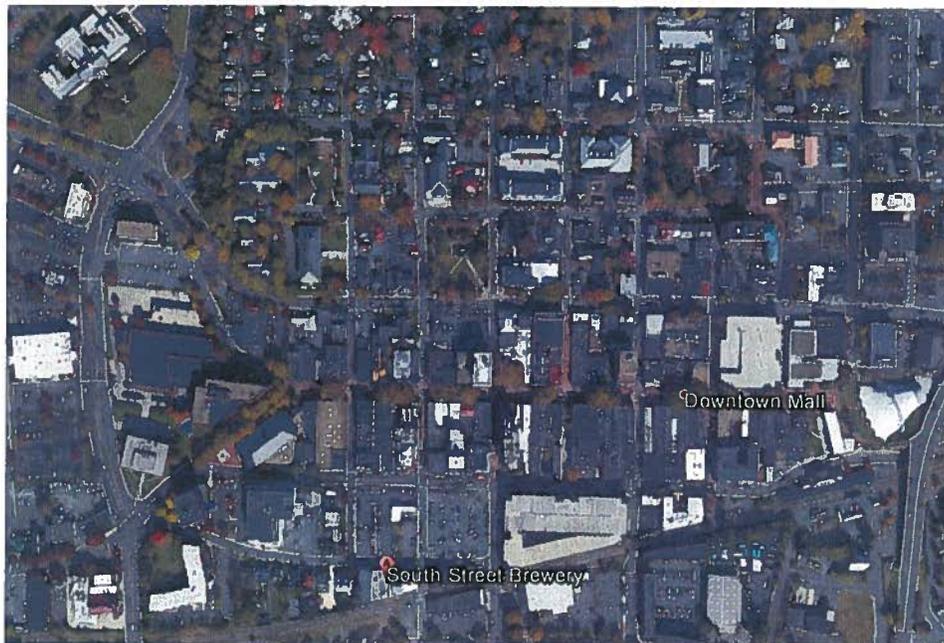
Location – Downtown Charlottesville (Downtown Mall)

Building size – 5,000 +/- sf

Loading facilities – No

Accessory uses – Restaurant

Parking – 0 spaces



3. Champion Brewery – Charlottesville, Urban / Industrial (Comparable: Train Station / Warehouse District / Mill District and Princess Anne Street Corridor / Jeff Davis Highway Commercial Areas)

Licensing – Craft 10,000 + barrels

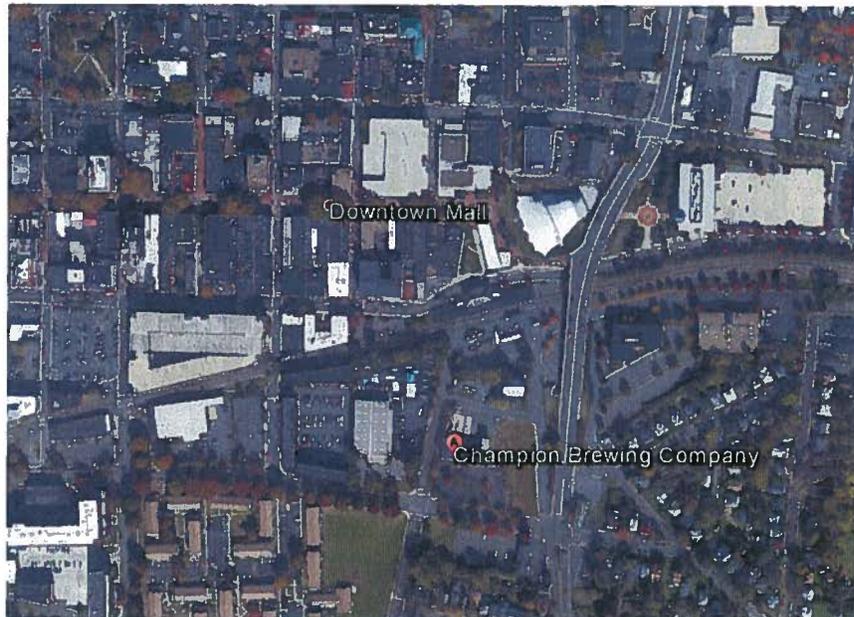
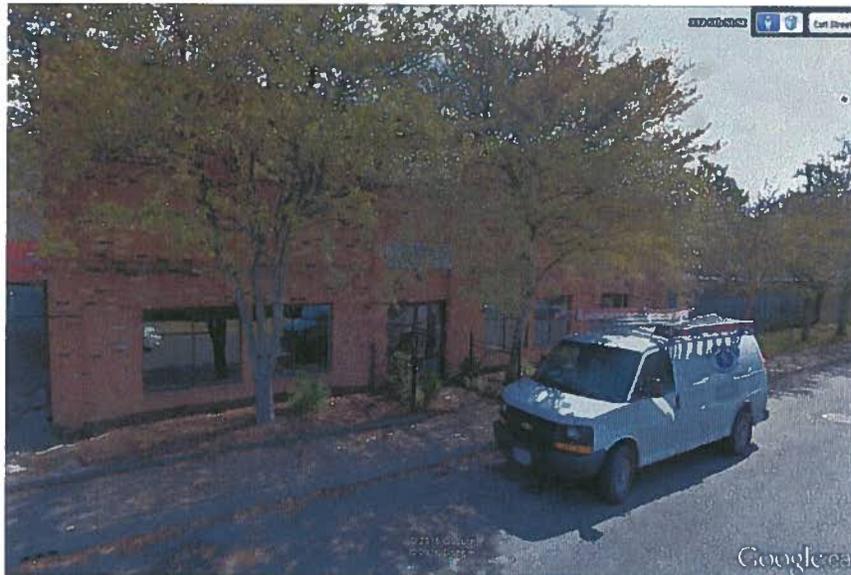
Location – Urban / Industrial Charlottesville (between neighborhoods and Downtown Mall)

Building size – 7,000 +/- sf

Loading facilities – Yes

Accessory uses – Tap room / tasting room

Parking – 50 spaces (shared)



4. Legend Brewing Company – Richmond, Urban Industrial (Comparable: Train Station / Warehouse District / Mill District / Lafayette Corridor / Belman Road)

Licensing – Craft 12,000 barrels

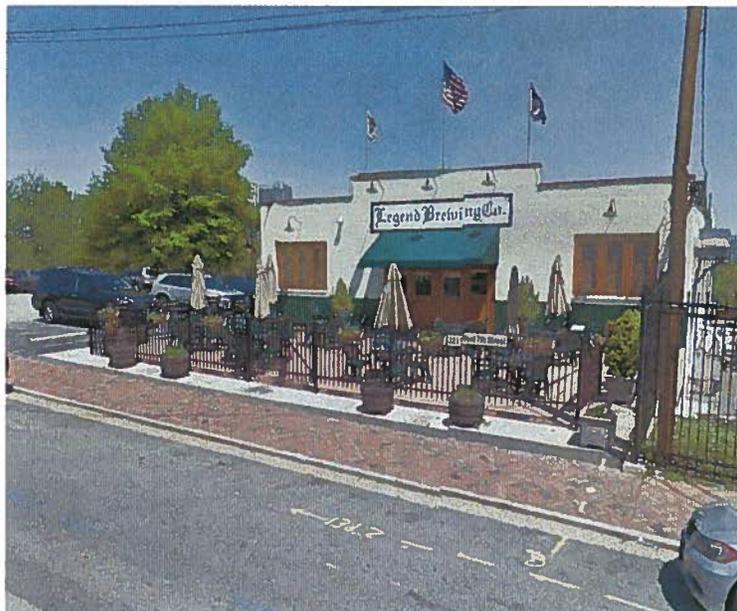
Location – Urban / Industrial Richmond

Building size – 25,000 +/- sf

Loading facilities – Yes

Accessory uses – Restaurant

Parking – 50 spaces



**5. Chesapeake Bay Distillery – Virginia Beach, Commercial District
(Comparable: Train Station / Warehouse District / Mill District and
Princess Anne Street Corridor / Jeff Davis Highway Commercial Areas)**

Licensing – Craft 5,000 gallons

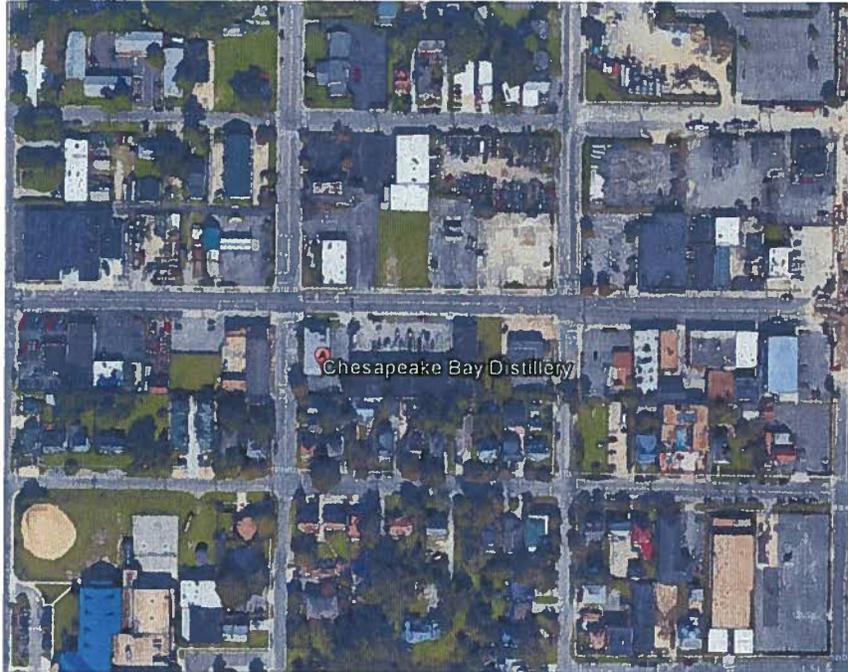
Location – Commercial District Virginia Beach

Building size – 25,000 +/- sf

Loading facilities – Yes

Accessory uses – Tours / Tasting Room / Retail Store

Parking – 20 spaces



6. Dark Corner Distillery – Greenville, South Carolina, Main Street (Comparable: Core Caroline Street)

Licensing – Unknown

Location – Main Street Greenville, South Carolina

Building size – 25,000 +/- sf

Loading facilities – No

Accessory uses – Tours / Tasting Room / Retail Store

Parking – 0 spaces



**A. Smith Bowman Distillery – Bowman Industrial Park, Spotsylvania County
(Comparable: Belman Road)**

Licensing – Heavy Manufacturing, over 36,000 gallons

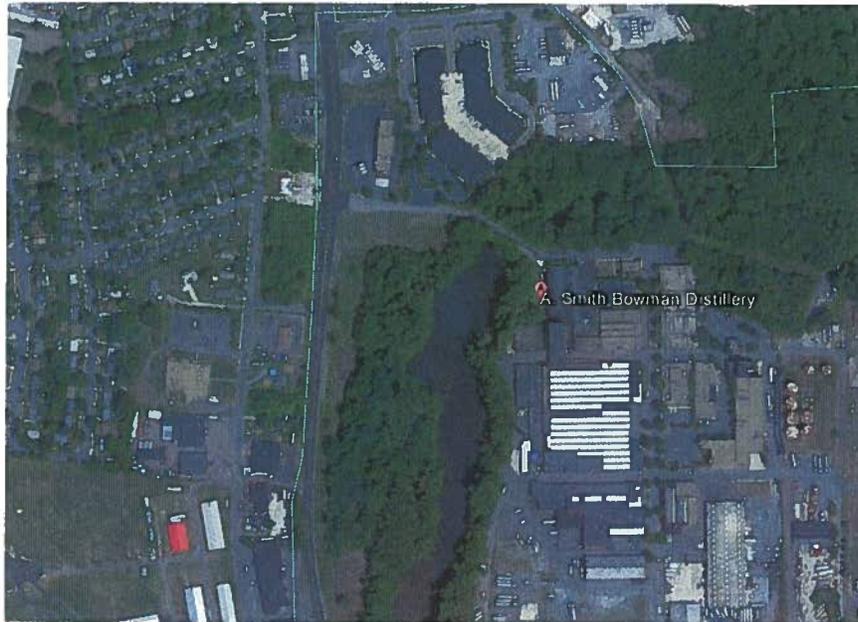
Location – Bowman Industrial Park

Building size – 30,000 +/- sf

Loading facilities – Yes

Accessory uses – Tours / Tasting Room / Retail Store

Parking – Shared





MOTION:

[date]

SECOND:

Regular Meeting
Ordinance No. 16-__

RE: **AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE FOR BREWERIES, WINERIES, AND DISTILLERIES IN THE CITY OF FREDERICKSBURG**

ACTION: **APPROVED; Ayes:0; Nays: 0**

First read: _____ Second read: _____

IT IS HEREBY ORDAINED by the Fredericksburg City Council that City Code Chapter 72, "Unified Development Ordinance," is amended as follows.

I. Introduction.

The City Council adopted a resolution to initiate this text amendment at its meeting on September 27, 2016. The Planning Commission held its public hearing on the amendment on _____, after which it voted to recommend the amendment to the City Council. The City Council held its public hearing on this amendment on _____.

The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor these amendments to the Unified Development Ordinance.

II. City Code Amendment.

1. City Code §72-4, "Use Table," is amended as follows:

Use Category	Use Type	CT	CD	CSC	CH	I1	I2	PDC	PDMU
<i>Alcoholic Beverage Production</i>	Microbrewery/taproom	S	P	P	P	P	P	P	P
	<i>Craft brewery</i>		S	S	S	S	P	S	S
	<i>Craft distillery</i>		S	S	S	S	P	S	S
	<i>Craft winery</i>		S	S	S	S	P	S	S
	<i>Regional brewery</i>						S	S	
	<i>Regional winery</i>						S	S	
	<i>Regional distillery</i>						S	S	

2. City Code §72-41.3, "Commercial Uses" is amended to add a new subsection "i. Craft brewery, distillery, or winery," as follows:

I Craft brewery, distillery, or winery. A craft brewery, distillery, or winery shall comply with the following standards:

- (1) A copy of the current Virginia ABC license shall kept on file with the Zoning Administrator.*
- (2) No outdoor storage is permitted.*
- (3) No outdoor events are permitted on site without an approved minor site plan, which shall show the event date, time and location; frequency; improvements; outdoor amplification systems; food trucks; and maximum occupancy, in addition to other information required for an evaluation of the minor site plan.*
- (4) The location of any loading dock is subject to approval by City Council or the Zoning Administrator, as appropriate.*
- (5) In considering a special use application, the City Council may consider whether the establishment of the use results in the rehabilitation or re-use of an existing industrial or commercial building, and whether existing public water and sanitary sewer conveyance and treatment facilities are adequate for the proposed use.*

3. City Code §72-41.3, "Commercial Uses" is amended to add a new subsection "Q. Microbrewery" as follows:

Q. Microbrewery. A microbrewery shall comply with the following standards:

- (1) A copy of the current Virginia ABC license shall kept on file with the Zoning Administrator.*
- (2) No outdoor storage is permitted.*
- (3) No outdoor events are permitted on the premises without an approved minor site plan, which shall show the event date, time and location; frequency; improvements; outdoor amplification systems; food trucks; and maximum occupancy, in addition to other information required for an evaluation of the minor site plan.*

4. City Code §72-41.3, "Commercial Uses" is amended to add a new subsection "T. Regional breweries, wineries, and distilleries," as follows:

T. Regional breweries, wineries, and distilleries.

- (1) A copy of the current Virginia ABC license shall kept on file with the Zoning Administrator.*
- (2) Outdoor storage shall conform to the standards for outdoor storage as a principal use.*
- (3) No outdoor events are permitted on site without an approved minor site plan, which shall show the event date, time and location; frequency; improvements; outdoor amplification systems; food trucks; and maximum occupancy, in addition to other information required for an evaluation of the minor site plan.*
- (4) In considering a special use application, the City Council may consider the proposed location of a loading dock, and whether existing public water and sanitary sewer conveyance and treatment facilities are adequate for the proposed use.*

5. City Code §72-83.4, "Commercial use classification," is amended to add the following uses in alphabetical order, and the remaining uses are re-lettered:

a. *CRAFT BREWERY/WINERY/DISTILLERY.*

Characteristics. The Commercial Alcoholic Beverage Use Category includes facilities for the production, packaging and distribution of beer, wine, and spirits. These uses are characterized as commercial uses, as opposed to the traditional manufacturing character, because the production volume is lower than that associated with a traditional manufacturing use. In addition, the production use is combined with one or more commercial uses such as eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use. Finally, this use involves the offering of the product for sale or consumption on premises.

b. *MICROBREWERY.*

Characteristics. The Commercial Alcoholic Beverage Use Category includes facilities for the production of beer. These uses are characterized as commercial uses, as opposed to the traditional manufacturing character, because the production volume is lower than that associated with a traditional manufacturing use. In addition, the production use is combined with one or more commercial uses such as eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use. Finally, this use is characterized by the on-premises retail sales or consumption of most of the beer produced. On-premises distribution facilities may be an accessory use.

c. *REGIONAL BREWERY/WINERY/DISTILLERY.*

Characteristics. The Commercial Alcoholic Beverage Use Category includes facilities for the production, packaging and distribution of beer, wine, and spirits. The production volume associated with the "regional" classification presents mixed commercial and manufacturing characteristics, but is still lower than a traditional manufacturing use. The production use is combined with one or more commercial uses such as eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use. This use involves the offering of the product for sale or consumption on premises; but distribution facilities for off-premises sale of the product are a characteristic of this use.

6. The definition of "Manufacturing, Heavy," is amended as follows:

MANUFACTURING, HEAVY

Manufacturing uses include, but are not limited to: asphalt/concrete mixing and batching, manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; *breweries producing more than 250,000 barrels annually, wineries or distilleries producing more than 36,000 gallons, lumber*

mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants. Specifically prohibited are rendering, petroleum/asphalt refining, concrete manufacturing plants, and manufacture of chemicals, fertilizers, paint, and turpentine.

7. The definition of "Microbrewery/Taproom," in City Code §72-84.0, "Definitions," is amended as follows:

~~MICROBREWERY/TAPROOM. A facility intended for the production and packaging of beer for distribution, retail sale, or on-premise consumption. The development may also include a restaurant and may also include a bar or provision of live entertainment as an accessory use. Annual production of 0 to 10,000 barrels of beer, primarily for on-premises retail sales or consumption. The facility includes one or more of the following accessory uses: eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use.~~

8. City Code §72-84.0, "Definitions," is amended to add the following definitions in alphabetical order:

BARREL. The volume of 31 gallons, used to measure the production of beer.

BEER. This term shall have the same meaning as prescribed in Code of Virginia Title 4.1, Alcohol Beverage Control Act, §4.1-100, "Definitions."

CRAFT BREWERY. Annual production, packaging, and distribution of 10,001 to 30,000 barrels of beer, with on-premises retail sales or consumption of at least 25% of the beer produced. The facility includes one or more of the following accessory uses: eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use.

CRAFT DISTILLERY. Annual production, packaging, and distribution of 0 to 5,000 gallons of distilled spirits, with on-premise retail sales and consumption of at least 25% of the spirits produced. The facility includes one or more of the following accessory uses: eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use.

CRAFT WINERY. Annual production, packaging and distribution of 0 to 5,000 gallons of wine, with on-premise retail sales and consumption of at least 25% of the wine produced. The facility includes one or more of the following accessory uses: eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use.

REGIONAL BREWERY. Annual production, packaging, and distribution of 30,001 to 250,000 barrels of beer, with on-premises retail sales and consumption, and for distribution off-premises. The facility includes one or more of the following accessory uses: eating establishment,

entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use.

REGIONAL DISTILLERY. Annual production, packaging, and distribution of 5,001 to 36,000 gallons of distilled spirits, with on-premises retail sales and consumption and for distribution off-premises. The facility includes one or more of the following accessory uses: eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use.

REGIONAL WINERY. Annual production, packaging and distribution of 5,001 to 36,000 gallons of wine, for on-premises retail sales and consumption and for distribution off-premises. The facility includes one or more of the following accessory uses: eating establishment, entertainment venue, gift shop, special event facility, tap room, tasting room, tours, or similar accessory use.

SPIRITS. This term shall have the same meaning as prescribed in Code of Virginia Title 4.1, Alcohol Beverage Control Act, §4.1-100, "Definitions."

WINE. This term shall have the same meaning as prescribed in Code of Virginia Title 4.1, Alcohol Beverage Control Act, §4.1-100, "Definitions."

SEC. III. Effective Date.

This ordinance is effective immediately.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Approved as to form:

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council



MOTION: KELLY
SECOND: WITHERS

September 27, 2016
Regular Meeting
Resolution No. 16-90

RE: INITIATING A UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT TO PROVIDE FOR BREWERIES, WINERIES, AND DISTILLERIES IN THE CITY OF FREDERICKSBURG

ACTION: APPROVED: Ayes: 7; Nays: 0

WHEREAS, the post-Prohibition industrial/manufacturing character of the production of beer, wine, and spirits is no longer the sole model, with the emergence of lower-volume production facilities, paired with traditional commercial character uses such as retail sales, restaurants, events starting in the 1990s.

WHEREAS, the new businesses are appropriate and indeed desirable in many areas of the city; the public purpose of these amendments is to identify, classify, and distribute these businesses throughout the City's zoning district in accordance with the public necessity, convenience, general welfare, and good zoning practices.

WHEREAS, the proposed amendments distinguish the new uses by (1) production volume, and (2) commercial character – especially the on-premises sales or consumption of the product – and distribute these uses to the appropriate commercial zoning districts, either by-right or by special use permit.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby initiate an amendment to City Code Chapter 72, the Unified Development Ordinance, to provide for breweries, wineries, and distilleries in the City of Fredericksburg. City Council refers this proposal to the Planning Commission for review, public hearing, and recommendation under the procedures set forth in City Code §72-22.1.

Votes:

Ayes: Greenlaw, Withers, Devine, Duffy, Ellis, Frye, Kelly

Nays: None

Absent from Vote: None

Absent from Meeting: None

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-90 duly adopted at a meeting of the City Council meeting held September 27, 2016 at which a quorum was present and voted.



Tonya B. Lacey, CMC
Clerk of Council



MEMORANDUM

TO: Chairman Jim Pates and Planning Commission Members
FROM: Marne E. Sherman, Development Administrator
DATE: November 1, 2016 (for November 9, 2016 Meeting)
RE: Amendments to the Unified Development Ordinance Regarding Fences/Walls and Lots

ISSUE

Should the Unified Development Ordinance (UDO) be amended to provide additional flexibility for fences on corner lots and through lots; decrease permitted fence heights from six feet to four feet in any front yard of lots zoned Commercial; authorize the Board of Zoning Appeals to issue special exceptions from fence height regulations in any front yard (including a secondary front yard on a corner or through lot); prohibit the use of barbed wire or razor wire except in an Industrial district; and clarify terms, figures, measurements, and tables related to sight triangles, lot types, required yards, and building fronts on lots in all zoning districts?

RECOMMENDATION

Motion to recommend approval of the attached ordinance to the City Council.

NOVEMBER 9, 2016 UPDATE

Planning Commission

On October 12, the Planning Commission held a public hearing at which there were no speakers. The Planning Commissioners discussed the proposed text amendment and deferred action to allow time for further review, consideration, and site visits. Five Planning Commissioners participated in “fence tours” offered by staff.

On October 14, one citizen, who lives on a corner lot, offered public comment and requested approval of the text amendment to permit a six foot tall fence within a secondary front yard that abuts the secondary front yard of another lot.

Board of Zoning Appeals

On October 17, the Board of Zoning Appeals (BZA) reviewed the proposed text amendment and offered comment. No formal action was taken. Several BZA members expressed a desire to maintain a limit of four feet in height on fences within any front yard (primary and secondary) and allow for case by case consideration by the BZA through a Special Exception process. There was additional discussion about further defining the criteria to evaluate a Special Exception request. Suggestions included requiring a specified setback per inch in height increased over the four foot limitation (ie, for

every inch of height increase, the fence would setback four inches from the property line) or mandating a certain level of transparency for fencing over the four foot height.

Staff considered these items but determined that there are not specific criteria that would work in all cases throughout the City. There may be some lots where a solid six foot tall fence within a front yard would be appropriate right along the property line and some cases where a taller fence would be inappropriate due to the character and pattern of the neighborhood, no matter its design. A minimal setback could create a “dead space” between the fence and the sidewalk, where a property owner may neglect maintenance of a small grass strip because it is hidden behind the taller fence. Additionally, the resulting setback may not be enough to protect the adjacent lot and maintain the overall neighborhood pattern. The concepts of transparency and setback are listed as evaluation criteria for issuance of a Special Exception. As written, the BZA will consider these elements with each unique application.

One BZA member participated in the “fence tours” offered by staff. One member took a tour independently.

BACKGROUND

City residents, living on corner lots and through lots, have sought changes to the UDO to permit fences and walls exceeding four feet in height within areas of secondary front yards. Specifically, this is the area of a corner lot or through lot that many homeowners perceive as their side or back yards as they run to the side of or behind the house, along a secondary street frontage. Residents would like to enclose this area of the lot to gain privacy from the street and neighboring uses. In some cases, there are neighborhoods with established (currently non-conforming) patterns of corner lots with six foot tall fences along the secondary front lot line. The City also contains unique lots with special circumstances (such as incompatible neighboring uses, topography, or high volume streets) that may warrant special consideration to permit taller fences and walls on a residential lot.

In May, City Council directed staff to present alternatives to the UDO to permit taller fences and walls within the secondary front yard, in keeping with traditional neighborhood patterns. These alternatives were presented to City Council during a work session on June 28, 2016. Staff formalized the June recommendations in the attached draft of related UDO amendments. The draft also presents general updates pertaining to fences and walls in all zoning districts and other UDO sections that were affected by definition and process changes.

On September 13, 2016, City Council approved Resolution 16-82 to formally initiate the text amendment process.

CURRENT REGULATION

The previous Zoning Ordinance and current UDO Section 72-56.2.B. regulate that “in any front yard of a site in any R District, a fence or wall shall not exceed four feet in height back to the front of the principal structure on the site. This provision shall also apply to residential uses in other districts.” There are two presumptive reasons for the limitation - bulk/mass in the front yard and safety along public spaces.

Bulk/Mass in a Front Yard

The general purpose of a minimum front yard setback is to provide for open areas and access to and around structures, for visibility and traffic safety, access to natural light, ventilation and direct sunlight, separation of incompatible land uses, and space for privacy, landscaping and recreation. The code currently allows for four foot fences to be placed anywhere on a residential lot and allows for taller fences to be placed in keeping with the minimum front yard setback. Just as the code limits principal structures (houses) and accessory structures (sheds and garages) from placement within close proximity to a street in residential zoning districts, fence heights are limited due to the mass and bulk they also create along the street. Fences along the street have the ability to provide privacy for the individual lot owner, but they may also disrupt an entire block face if not constructed in harmony¹ with the context of adjacent properties.

Safety along Public Spaces

As taller structures are placed nearer to the street, there is a potential heightened risk to public safety. Taller fences within front yards can create potential sight distance conflicts with vehicles utilizing driveways and alleys intersecting with pedestrians on public sidewalks. Additionally, taller fences may increase potential dangers along the sidewalk by creating dark areas and places for people to hide if the fence is not adequately setback or built with a certain level of transparency.

PROPOSAL

To address the public's desire to allow taller fences/walls within the secondary front yard while maintaining good design in relation to bulk/mass and safety, staff recommends changes to the UDO which will:

Article 2 Administration

- Establish criteria and permit the Board of Zoning Appeals (BZA) to issue and revoke Special Exceptions for fences within any front yard. To address unique lots in the City, the BZA will hold a public hearing and evaluate the location, materials, and height of the proposed fence and consider their effect on adjacent properties, public safety, and the character and pattern of development in the surrounding neighborhood. The standard for issuance of a Special Exception is lesser than for a variance which requires the demonstration of a hardship or that associated the ordinance would unreasonably restrict the utilization of the property.

Article 4 Accessory Use Standards

- Clarify that fences are permitted within a required yard.
- Update the term “double frontage lot” to “through lot.”

Article 5 Fences and Walls

- Reduce fence heights on property zoned Commercial from six feet to four feet in any front yard.
- Permit fence heights to exceed four feet, up to six feet, in secondary front yards on lots zoned Residential, Commercial, and Planned Development that meet certain established criteria. Examples include: lots with a secondary front yard that adjoins another secondary front yard or

¹ Virginia Code § 15.2-2283. One of the purposes of zoning ordinances is to “facilitate the creation of a convenient, attractive and harmonious community.”

instances where an existing accessory structure on a lot already encroaches into a secondary front yard.



Example of two corner lots with adjoining secondary front yards where fences/walls would be permitted up to six feet in height within the secondary front yard.

- Increase the maximum permitted fence height from 24 inches to 40 inches within a sight triangle (in accordance with Virginia Department of Transportation standards).
- Prohibit the use of barbed wire, razor wire, or similar fence materials on properties zoned Residential, Commercial, or Planned Development and on properties used for residential purposes.
- Remove references to transparent and opaque fences.
- Update Figure 72-56.2 Fence and Wall Location.

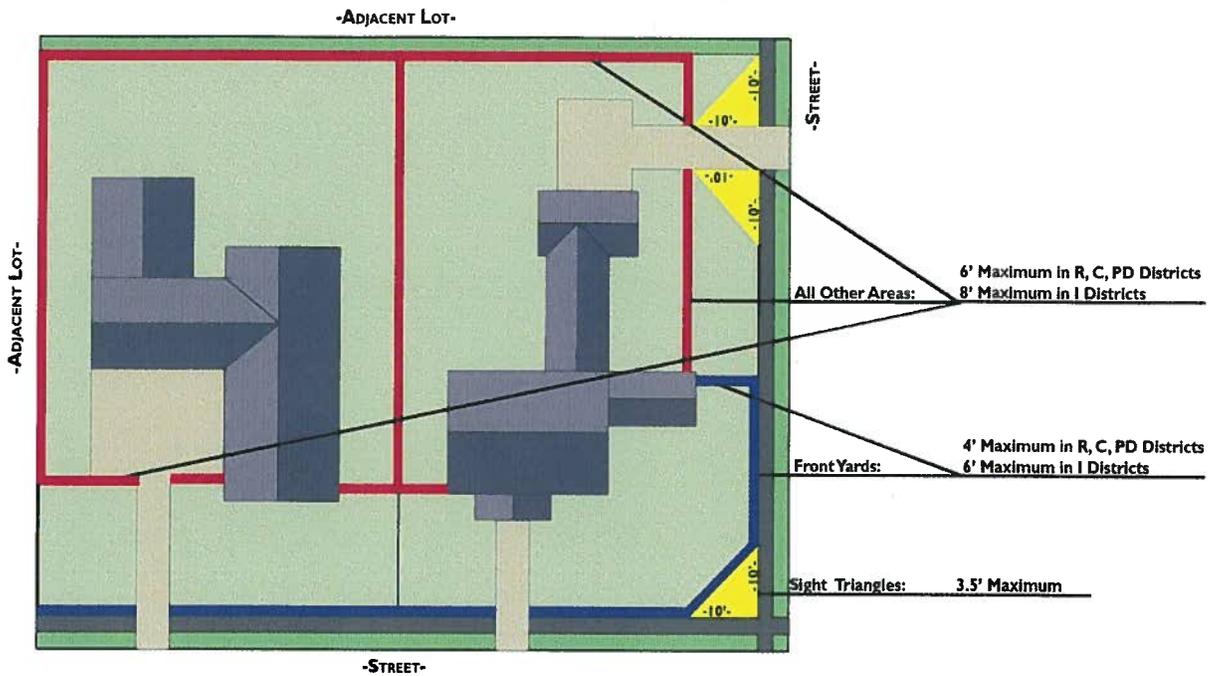


Figure 72-56.2 Fence and Wall Location

Article 6 Non-conforming Structures, Minor Alterations

- Identify that fences are non-conforming structures which qualify for alteration when they meet the listed criteria.

Article 8 Definitions and Interpretations

- Replace the term “double frontage lot” with “through lot.”
- Create the terms “Primary Front Yard” and “Secondary Front Yard.”
- Update of Figure 72-82.3A(4) Lot Types and 72-82.4A Yard Types to reflect text changes.

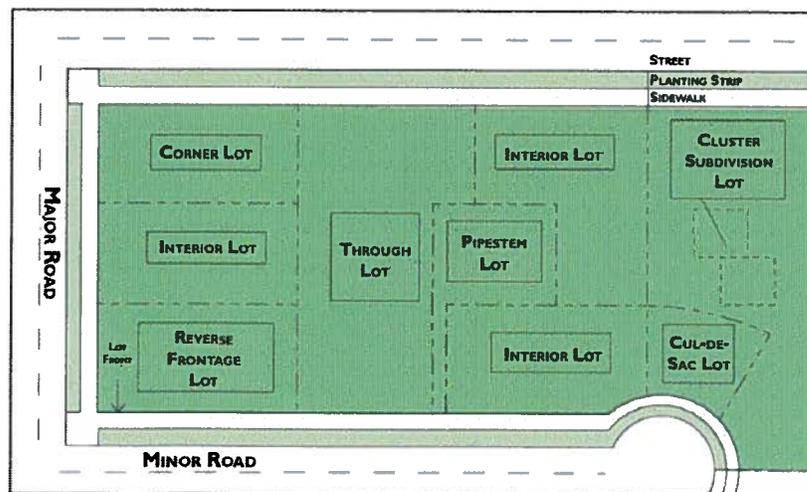


Figure 72-82.3A(4) Lot Types

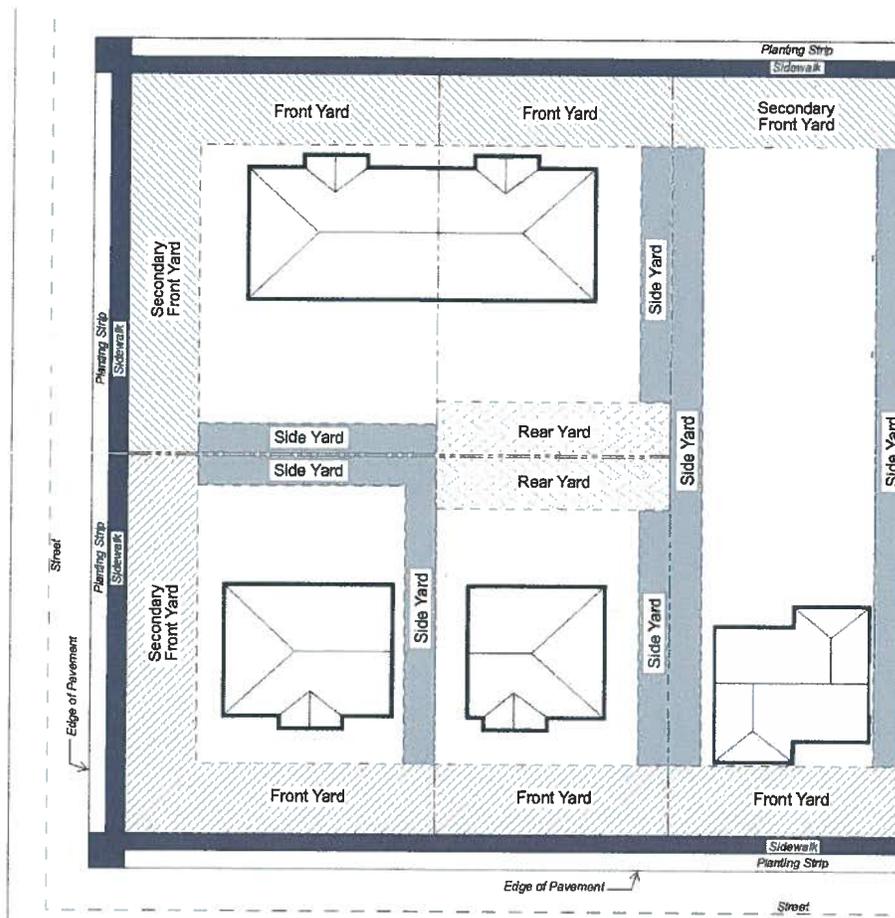


Figure 72-82.4A Yard Types

- Establish the criteria for measuring a sight triangle for the purposes of installing a fence.
- Remove the term Front (or primary façade) as it was replaced with Building Front during a previous text amendment.

Attachments: Draft Ordinance
Frequently Asked Questions
City Council Resolution 16-82



MOTION:

[date]
Regular Meeting
Ordinance No. 16-__

SECOND:

RE: AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGULATIONS OF FENCES IN ALL ZONING DISTRICTS, INCLUDING CHANGES IN THE DEFINITIONS OF REQUIRED YARDS

ACTION: APPROVED; Ayes:0; Nays: 0

First read: _____ **Second read:** _____

IT IS HEREBY ORDAINED by the Fredericksburg City Council that City Code _____
" _____," is amended as follows.

I. Introduction.

The City Council adopted a resolution to initiate this text amendment at its meeting on September 13, 2016. The Planning Commission held its public hearing on the amendment on _____, after which it voted to recommend the amendment to the City Council. The City Council held its public hearing on this amendment on _____.

The purpose of this amendment is to modify current zoning regulations for fences in all zoning districts, to provide additional clarity and flexibility in these regulations, while continuing to provide for adequate light, air, convenience of access, and safety from crime, and other dangers; to facilitate the creation of a convenient, attractive and harmonious community; and protect against loss of life, health, or property from fire. While the purpose of the ordinance is to change fence regulations, these changes require changes in the definitions of required yards, for purposes of implementing the new regulations and providing additional flexibility. In making these amendments, the City Council has considered the factors in Code of Virginia 15.2-2284. The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the amendment.

II. City Code Amendment.

1. City Code §72-21.7, "Development Review Structure," is amended to add authority for the Board of Zoning Appeals to issue *and revoke* special exceptions for fences, upon recommendation of the Zoning Administrator. Such decisions may be appealed to the Circuit Court. The table shall be amended to add the following data:

Specific Review Procedure	City Council	Planning Commission	Board of Zoning Appeals	Architectural Review Board	Zoning Administrator	Development Administrator
<i>Special exception, fence</i>		R	<D>		R	

2. City Code §72-22.8, “Variances, administrative appeals, and Zoning Map interpretations,” shall be amended as follows:

Sec. 72-22.8. Variances, administrative appeals, special exceptions, and Zoning Map interpretations.

- A. Purpose and applicability. This section sets forth the procedures *and criteria* for the Board of Zoning Appeals (BZA) to consider applications for variances, appeals of administrative actions, *applications for special exceptions, revocations of special exceptions,* and interpretations as defined in Code of Virginia §15.2-~~2209~~ 2309 and 15.2-~~2210~~ 2310.
- B. Process.
- (1) Applications for variances *and fence special exceptions* shall be made to the Zoning Administrator in accordance with the rules adopted by the BZA pursuant to Code of Virginia §15.2-2310.
- (2) A variance, appeal, *application for special exception, revocation of a special exception* or Zoning Map interpretation shall be authorized by the BZA after a public hearing and shall be in compliance with the required findings and procedures set forth within Code of Virginia §15.2-2309 *or this section.*

[the remainder of subsection (B), and subsections (C), (D), and (E) are not amended.]

- F. *Review authority and criteria, special exceptions; fences. The Board of Zoning Appeals may hear and decide applications for a special exception from the regulations governing fence heights in any front yard (including a secondary front yard) in any zoning district. The board may impose such conditions relating to the fence as it may deem necessary in the public interest, including limiting the duration of the special exception, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. In considering an application, the Board shall apply the following criteria:*
- (1) *Whether approval of the special exception will impair an adequate supply of light or air to adjacent property, or cause or substantially increase the danger of fire or the spread of fire, or endanger the public safety.*

- (2) *Whether the proposal will be compatible with the existing character and pattern of development in the surrounding neighborhood and facilitate an attractive and harmonious community.*
- (3) *Whether the application represents the only reasonable means and location on the lot to accommodate the proposed fence given the natural constraints of the lot or the existing development on the lot.*
- (4) *Whether the size, configuration, existing mature vegetation or trees, or other unusual characteristic of the lot requires an exception from the zoning requirements in order to provide a reasonable fenced area without creating significant impact to adjacent properties or the neighborhood.*
- (5) *The height of the proposed fence and the use of opaque or transparent materials; the use of a buffer area between the public right of way and the fence. The fence shall not exceed six feet in height.*

F. G. The Board of Zoning Appeals is authorized to revoke a special exception previously granted by it, if the board determines that there has not been compliance with the terms or conditions of the special exception. No special exception may be revoked except after notice and hearing as provided in this section. However, when giving any required notice to the owners, their agents, or occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

H. Appeals. Any person or persons jointly or severally aggrieved by an action of the BZA on a variance application, or any aggrieved taxpayer or any officer, department, board or bureau of the locality City may file with the Clerk of the Circuit Court for the City of Fredericksburg, a petition, specifying the grounds on which aggrieved within 30 days after the final decision of the Board, pursuant to Code of Virginia §15.2-2314.

3. City Code §72-42.3, "Location of accessory uses or structures," shall be amended as follows:

Sec. 72-42.3. Location of accessory uses or structures.

- A. No accessory use or structure shall occupy more than 30% of the rear yard.
- B. No accessory structure *except a fence* shall be located in the any front yard. No accessory structure requiring a building permit shall be closer to a front lot line than the principal structure.
- C. No accessory use or structure shall be closer than five feet to a side or rear lot line, except that if the principal structure has a setback of less than five feet, then the setback of an accessory structure may be the same as exists for the principal structure.

- D. No accessory structure shall be located within any platted or recorded easement or over any known utility unless written authorization is provided from the easement holder or the City, as appropriate.
- E. An accessory structure may be located within ~~rear~~ a secondary front yard of a ~~double frontage~~ through lot provided:
 - (a) The lot is zoned with a nonresidential, mixed-use, or planned development district designation;
 - (b) The lot across the street from the secondary front yard has a nonresidential, mixed-use, or planned development district designation;
 - (c) The accessory structure does not exceed 12 feet in height, or one story, whichever is less;
 - (d) The accessory structure setback is at least five feet from the ~~rear~~ secondary front lot line; and
 - (e) The area between the accessory structure and adjacent street includes landscaping that is capable of screening the structure when it is mature.

4. City Code §72-56.1, "Location requirements," shall be amended as follows:

Sec. 72-56.1 Location requirements.

A. General.

- (1) Fences or walls shall be located outside of the public right-of-way, ~~and may not exceed 24 inches in height if located within a required sight triangle.~~
- (2) Fences and walls are permitted on the property line between two or more parcels of land held in private ownership.
- (3) Fences and walls may be located within any required yard.

[The remaining subsections of §72-56.1 are not amended.]

5. City Code §72-56.2, "Height standards," shall be amended as follows:

Sec. 72-56.2. Height standards.

- A. All fences and walls shall conform to the standards in Table 72-56.2, Fence and Wall Height. In all cases, heights are measured from established grade on the highest side of the fence or wall (see Figure 72-56.2, Fence and Wall Location).

Current Table 72-56.2, "Fence and Wall Height," is repealed and replaced with the following table:

Table 72-56.2: Fence and Wall Height (effective [date])		
Zoning district	Location	Maximum height
Residential	Any location on a vacant lot	48"
Residential Commercial	Between a front lot line and the front of the principal building	48"

Planned Development	Within a secondary front yard	48"
	Any other location on the lot	72"
Industrial	Between the front lot line and the front of the principal building	72"
	Within a secondary front yard	72"
	Any other location on the lot	96"
Any zoning district	Within a sight triangle	40"

B. The following exceptions to the general height regulations apply to corner and through lots:

Zoning district	Location	Special Circumstance	Maximum Height
Residential Commercial Planned Development	Secondary front yard	The secondary front yard abuts a primary front yard of another lot.	72" if the fence is no closer to the secondary front property line than the front of the abutting principal structure.
		The secondary front yard abuts the secondary front yard of another lot.	72"
		An accessory structure is located within the secondary front yard.	72" if the fence is no closer to the secondary front lot line than any side of the accessory structure

NOTES:

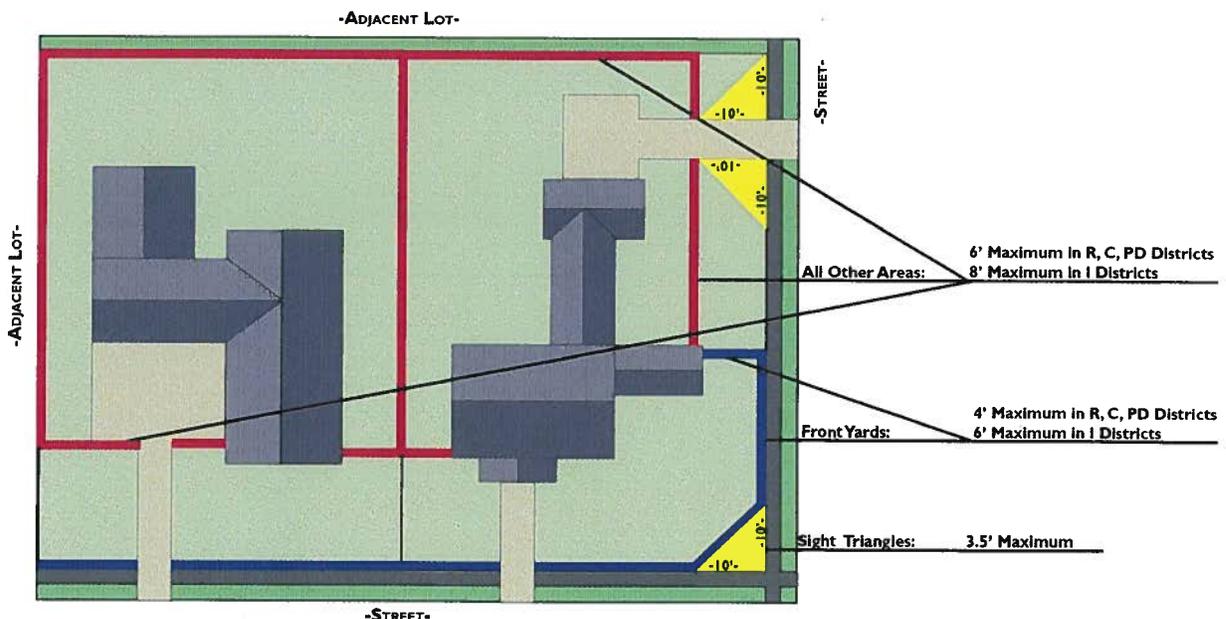
~~[1] Transparent fences or walls are constructed so that 50% or more of the fence or wall is visually permeable.~~

~~A. The Zoning Administrator may approve fences or walls exceeding six feet in height in any side or rear yard in a residential, commercial, or planned zoning district, if the adjacent property is in a nonresidential zoning district, or if there are unique topographic or other physical circumstances on the property that were not created by the property owner. The Zoning Administrator may condition approval on a prescribed setback from the property line. A fence or wall in any residential zoning district shall not exceed six feet in height above the existing grade in any side or rear yard of a site up to the front of the principal structure on the site. This provision shall also apply to fences and walls located on lots used for residential uses in other zoning districts. The Development Zoning Administrator may approve fences or walls exceeding six feet in height if the adjacent property is in a nonresidential zoning district or if there are unique topographic or other physical circumstances not created by the property owner. Additional setbacks may be required by the Development Administrator for such taller fences.~~

- ~~B. In any front yard of a site in any R District, a fence or wall shall not exceed four feet in height back to the front of the principal structure on the site. This provision shall also apply to residential uses in other districts.~~
- ~~C. For vacant sites in residential districts, fences or walls may not exceed four feet in height.~~
- B. *The Zoning Administrator may approve fences or walls exceeding the maximum height in any yard in an industrial district if there are unique topographic or other physical circumstances not created by the property owner. The Zoning Administrator may condition approval on a prescribed setback from the property line. A fence or wall shall not exceed eight feet in height in any yard of any industrial or commercial use permitted by the provisions of this subsection unless the Development Administrator authorizes such fences or walls to exceed eight feet. The Development Administrator may approve fences or walls to exceed eight feet if there are unique topographic or other physical circumstances not created by the property owner. Additional setbacks may be required by the Development Administrator for such taller fences. Additional setbacks may be required by the Development Administrator for such taller fences.*
- C. No fence or wall shall be constructed in a manner or in a location that impairs safety or sight-lines for pedestrians and vehicles traveling on public rights of way.

Figure 72-56.2, "Fence and Wall Location," is repealed and replaced with the following figure:

Figure 72-56.2. Fence and Wall Location (effective date: _____)



[Section 72-56.3, "Maintenance," is not amended.]

6. New section 72-56.4 is added as follows:

Sec. 72-56.4. Fence materials.

No barbed wire, razor wire, or similar fence material is permitted in residential, planned development, or commercial zoning district or on a lot containing or adjacent to a residential use.

7. City Code §72-63.3, "Minor alterations," [to nonconforming structures] is amended as follows:

Sec. 72-63.3. Minor alterations.

Minor alterations shall not be deemed a change in the structural condition of the property, for purposes of § 72-61.1C. Minor alterations are alterations that meet one or more of the following criteria:

- A. The alterations consist of cosmetic modifications, interior renovations and similar improvements to a nonconforming residential structure and such alterations do not increase the land area occupied by any portion of the nonconforming building or structure, and shall not increase the gross floor area of any nonconforming building or structure.
- B. The alterations do not increase the extent of the structure's nonconformity with the minimum site or yard requirements of the zoning district.
- C. The alterations consist of a substantially similar replacement of an existing residential accessory building or structure including, but not limited to, a *fence*, storage shed, garage or swimming pool, may be permitted and shall not be required to meet more restrictive setbacks enacted since the date the accessory structure became nonconforming, however, all other zoning regulations for the district in which the accessory structure is located shall apply.

8. City Code §72-82.3A, "Lots," is amended as follows:

Sec. 72-82.3A. Lots.

[Subsections A (1), (2), and (3) are not amended.]

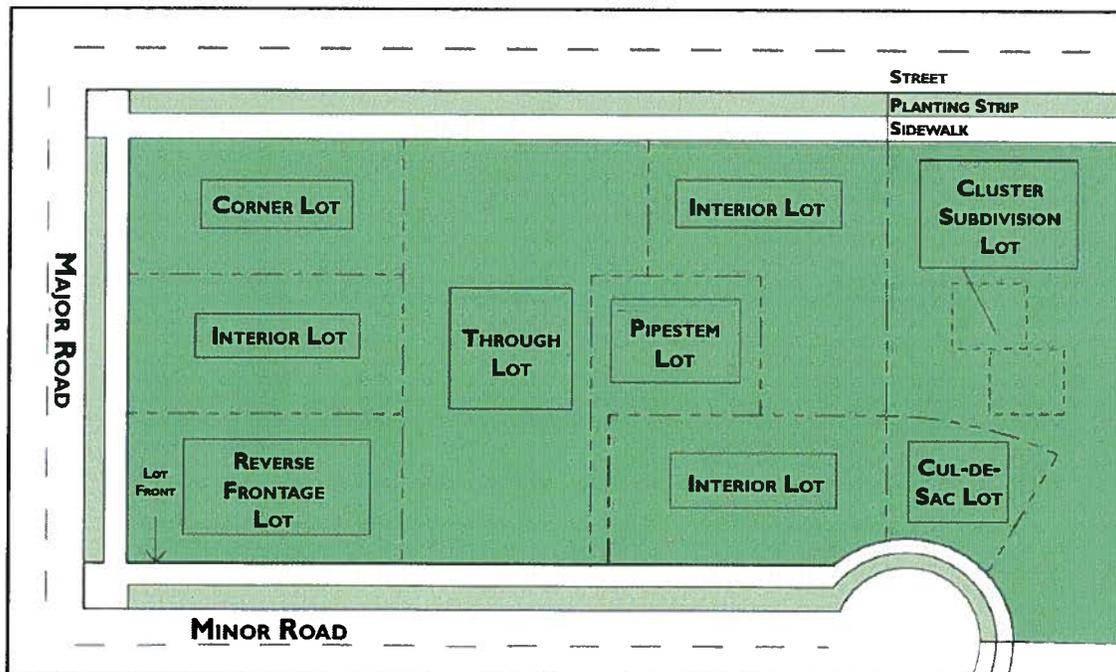
(4) Lot types.

- (a) Cluster subdivision lot. A cluster subdivision lot is a building lot located within a cluster subdivision.
- (b) Corner lot. A corner lot is located at the intersection of two or more streets (other than alleys), regardless of whether or not such streets intersect at right angles.

- (c) Cul-de-sac lot. A cul-de-sac lot is located on the head or turnaround of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.
- (d) ~~Double-frontage~~ *Through* lot. A ~~double-frontage through~~ lot is a lot other than a corner lot with frontage on more than one street other than an alley.
- (e) Interior lot. An interior lot is a lot other than a corner lot with only one frontage on a street other than an alley.
- (f) Pipestem lot. A pipestem lot is a lot which does not abut a public street other than by a driveway affording access to the lot.
- (g) Reverse-frontage lot. A reverse-frontage lot is a corner lot, intentionally designed so that the front lot line faces a local street rather than facing a parallel major thoroughfare.

Figure 72-82.3A(4), "Lot Types," is repealed and replaced by the following table:

Figure 72-82.3A(4). Lot Types (effective date: _____)



B. General Pipestem lot requirements.

~~(1) Pipestem lots.~~

[The existing text is re-numbered as sub- paragraphs 1, 2, 3, and 4.]

9. City Code §72-82.4, "Required yards," is amended as follows:

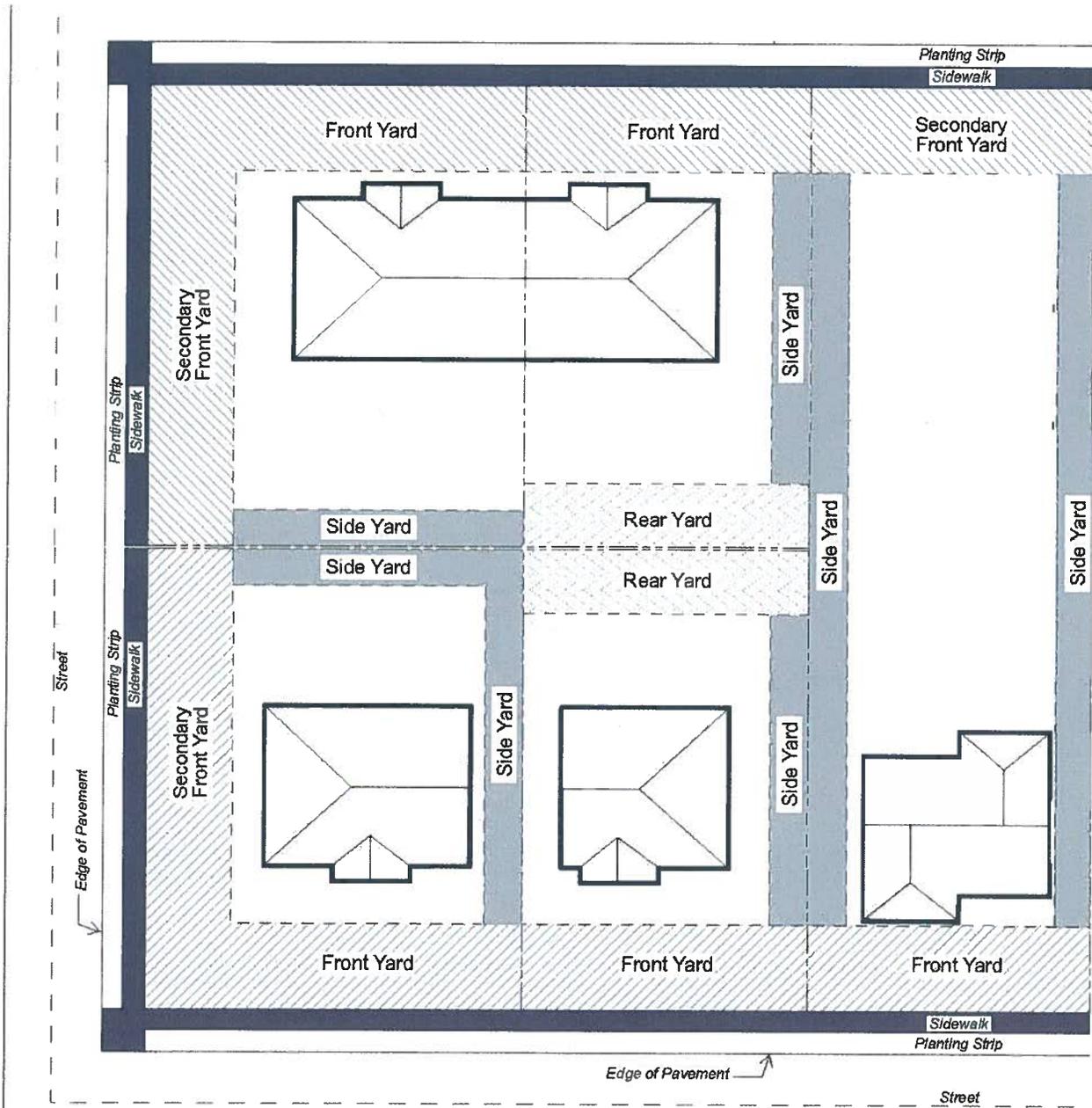
Sec. 72-82.4. Required yards.

A. ~~Definitions/measurement.~~ *Yard Types.*

- (1) **Setback.** The term "setback" refers to the distance by which any portion of a building or structure shall be separated from a lot line.
- (2) **Front yard.** ~~The~~ A front yard is an area of a lot adjacent to its front lot line, measured by the length of the front lot line, extending from one side lot line to the other side lot line, and the width of the required front setback.
- (3) *Primary front yard: for corner lots and through lots, the front yard that contains the building front.*
- (4) *Secondary front yard: a front yard of a corner or through lot that does not contain the building front. A secondary front yard begins at the point where it intersects with the primary front yard and extends to the side property line.*
- (5) **Rear yard.** The rear yard is an area of a lot adjacent to its rear lot line, measured by the length of the rear lot line, extending from one side lot line to the other side lot line, and the width of the required rear setback.
- (6) **Side yard.** The side yard is an area of a lot adjacent to its side lot line, measured by the length of the side lot line, extending from the edge of the front setback line to the edge of the rear setback line, and the width of the required side setback.

Figure 72-82.4A, "Yard Types," is replaced with the following figure:

Figure 72-82.4A. Yard Types (effective date: _____)



B. General setback requirements.

- (1) Separation. When the standards in this chapter call for a separation between two different use types or development features, separation shall be measured from the closest edge of one lot to the closest edge of the other lot.

- (2) Averaging setbacks. When zoning district standards permit or require determination of a *any* front or side setback through averaging, the average yard shall be calculated by using the methods set forth here. The dimensions of existing yards shall be determined through the best information reasonably available, including, in order, surveys of record, on-site measurements, or the 2010 tax maps. The median is the type of average that shall be applied. The median front yard shall be calculated by using existing principal buildings along the same block face. The median side yard shall be determined by using lots or parcels of similar width located on the same block face. Each side yard median (left and right) shall be calculated and applied separately. If the foregoing measurements do not establish a clear pattern of development, then the administrator may use the opposite block face to establish the average front or side yard.

[Figure 72-82.4B, "Average Setback Measurement," is not amended.]

- (3) Corner lots *and through lots*. On a corner lot or ~~double-frontage~~ *through* lot, the yards adjacent to the front lot lines shall be considered front yards and the remaining yards shall be considered side yards.
- (4) Setbacks following government acquisition of land. Where land acquisition for a public purpose reduces the distance between an existing legally established structure and an adjacent lot line to an amount less than the minimum required, the resulting distance shall be deemed the minimum setback for the lot.
- (5) Sight triangles. Regardless of the setbacks applied in a district, no structure *except a fence* shall be permitted within the required sight triangle. *For fences, a sight triangle is the triangle formed by the two right-of-way lines at a street intersection, or the intersection of a driveway and a street, and a line connecting those two lines 10 feet from their intersection.*
- (6) Uncovered terraces. Required yard setbacks shall not apply to uncovered terraces, uncovered patios and unroofed porches not more than 30 inches above existing grade in residential zoning districts or 15 inches in nonresidential and mixed-use zoning districts.

10. City Code §72-84.0, "Definitions," is amended as follows:

~~Front (or primary) façade – The side or elevation of a structure that contains the structure’s architectural front, or the portion of the structure facing the street from which the structure derives its street address.~~

FRONT LOT LINE -- the street line(s) that form(s) the boundary of a lot; or, where a lot does not abut a street other than by its driveway, or is a through lot, the lot line which faces the building front.

SEC. III. Effective Date.

This ordinance is effective immediately.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Approved as to form:

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16- duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.

Tonya B. Lacey, CMC
Clerk of Council

1. What does the UDO regulate as a “fence?”

A “fence” is a structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.¹ The fence regulations apply equally to “walls.”² The regulations apply to the construction of a new fence or wall, or the reconstruction or replacement of a new fence or wall.³ The regulations do not apply to temporary fencing for construction sites, tree protection,⁴ or retaining walls.

2. What general rules apply to the location of a fence or wall?

Fences and walls may be located in any of the required minimum yards (front, side, rear)⁵ so long as they are located outside the public right of way.⁶ They may be located on the property line between two or more parcels of private property.⁷ They may be located within utility easements, with the permission of the easement holder.⁸

If a fence is located within a “sight triangle,” then it shall not exceed 40 inches in height.⁹ If a fence is located within a required “buffer,” then it shall not disturb or damage vegetation within the buffer. Perimeter fencing within a buffer for a single (multi-lot) development shall be a uniform style.¹⁰

3. What are the general rules for the height of fences?

Generally speaking, rules for the maximum permitted height of a fence depend on two factors: (1) the zoning district, and (2) the location of the fence on the lot. The limitations on fence height within the sight triangle are the strictest, due to their direct impact on public safety.

Zoning district	Location	Maximum height
Any	Within a sight triangle	40”
Residential	Any location on a vacant lot	48”
Residential Commercial Planned Development	Between the front lot line and the front of the principal building	48”
	Any other location on the lot	72”
Industrial	Between the front lot line and the front of the principal building	72”
	Any other location on the lot	96”

¹ §72-84, Definitions.

² References to “fences” in this FAQ apply equally to walls.

³ §72-56.0(B)(1).

⁴ §72-56.0(B)(2).

⁵ §72-56.1(A)(3).

⁶ §72-56.1(A)(1).

⁷ §72-56.1(A)(2).

⁸ §72-56.1(B).

⁹ §72-56.1(A)(1). Ordinarily, no structures are permitted within a required sight triangle. (§72-82.4(B)(5).

¹⁰ §72-56.1(D).

4. What are the regulations for maximum fence heights on corner or through lots?

Corner or through lots pose special considerations for maximum fence heights, since they have at least two “front yards.” The basic regulations for front yards apply to both of the front yards of a corner or through lot, unless special circumstances apply:

Zoning district	Location	Special Circumstance	Maximum Height
Residential Commercial Planned Development	Secondary front yard of a corner or through lot	The secondary front yard abuts a primary front yard.	72” if the fence is not closer to the secondary front property line than the front of the abutting principal structure.
		The secondary front yard abuts the secondary front yard of another lot.	72”

5. What are the regulations for maximum fence height for other special circumstances?

At this time, the regulations recognize one additional special circumstance that justifies a higher maximum fence height:

Zoning district	Location	Special Circumstance	Maximum Height
		An accessory structure is located on the same lot as the proposed fence.	72” if the fence is not closer to the secondary front property line than any side of the accessory structure.

6. Who may grant a case-by-case exception from the fence height regulations?

The Board of Zoning Appeals is authorized to grant a special exception, on a case-by-case basis, from the regulations governing fences in *any front yard* (primary or secondary) in any zoning district. The BZA holds a public hearing on the exception application and applies criteria established by City Council, to decide whether the exception is in the public interest.¹¹ The Planning Commission is entitled to notice of these applications, and it may either appear at the BZA public hearing or send a written comment or recommendation.¹² The BZA may impose conditions on the permit; and it is authorized to revoke a special exception it previously granted, if it determines there has not been compliance with the terms or conditions of the permit, after notice and a public hearing.

¹¹ See the criteria in §72-22.8(F).

¹² Code of Virginia §15.2-2310.

The Zoning Administrator may approve a fence or wall exceeding 6 feet in height in any side or rear yard in a residential, commercial, or planned zoning district, if the adjacent property is in a nonresidential zoning district, or if there are unique topographic or other physical circumstances on the property (that were not created by the property owner).

In addition, the Zoning Administrator may approve a fence or wall exceeding the permitted height in any yard in an industrial zoning district, if there are unique topographic or other physical circumstances on the property (that were not created by the property owner).

The Zoning Administrator may require any taller fence to be set back from the property line an appropriate distance to mitigate the impacts of the taller height.

7. What other restrictions are imposed on fences?

The City does not permit the use of barbed wire, razor wire, or similar fence materials in any zoning district except an industrial zoning district.¹³

A fence within a sight triangle may not impair safety or sight-lines for pedestrians or vehicles traveling in the public rights of way.¹⁴

A nonconforming fence may be replaced with a substantially similar fence in the same location, without bringing the new fence into compliance with current regulations.¹⁵

¹³New §72-56.4.

¹⁴ §72-56.1(E).

¹⁵ §72-63.3.

8. Please define the terms that are used in these regulations.

Please refer to the following definitions and illustrations:

Buffer: An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which is used for recreation or parking.¹⁶

Building front: That one face or wall of a building architecturally designed as the front of the building, which normally contains the main entrance for use by the general public.¹⁷

Corner lot: A lot located at the intersection of two or more streets (other than alleys) regardless of whether the streets intersect at right angles.¹⁸

Front lot line: the street line that forms the boundary of a lot; or, where a lot does not abut a street other than by its driveway, or is a through lot, the lot line which faces the Building Front.

Front yard: the area of a lot adjacent to its front lot line, measured by the length of the front lot line, extending from one side lot line to the other side lot line, and the width of the required front setback.¹⁹

Nonconforming: a fence or wall lawfully constructed, which does not comply with current regulations.²⁰

Primary front yard: for corner lots and through lots, the area between the front lot line and the Building Front.²¹

Secondary front yard: a front yard of a corner or through lot that does not contain the Building Front. A secondary front yard begins at the point where it intersects with the primary front yard.²²

Sight triangle: the triangle formed by the two right-of-way lines at a street intersection, or the intersection of a driveway and a street, and a line connecting those two lines 10 feet from their intersection.²³

Through lot: A lot other than a corner lot, with frontage on more than one street other than an alley.²⁴

¹⁶ §72-84.0. See Article 5 of the UDO for buffer yard requirements.

¹⁷ §72-84.0.

¹⁸ §72-82.3(A)(4)(b).

¹⁹ §72-82.4.

²⁰ §72-61.1.

²¹ §72-82.4.

²² §72-82.4.

²³ §72-82.4(B)(5).

²⁴ §72-82.3(A)(4)(d).



MOTION: KELLY

**September 13, 2016
Regular Meeting
Resolution No. 16-82**

SECOND: WITHERS

RE: INITIATING A UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT TO CHANGE THE REGULATIONS OF FENCES IN ALL ZONING DISTRICTS, INCLUDING CHANGES IN THE DEFINITIONS OF REQUIRED YARDS

ACTION: APPROVED: Ayes: 7; Nays: 0

WHEREAS, the City Council proposes to amend the Unified Development Ordinance regulations for fences in all zoning districts, to provide clarity and flexibility in these regulations, while continuing to provide for adequate light, air, convenience of access, and safety from crime, and other dangers; to facilitate the creation of a convenient, attractive and harmonious community; and protect against loss of life, health, or property from fire. While the purpose of the ordinance is to change fence regulations, these changes require changes in the definitions of required yards, for purposes of implementing the new regulations and providing additional flexibility.

WHEREAS, in proposing these amendments, the City Council has considered the factors in Code of Virginia 15.2-2284; the City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the amendment.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby initiate an amendment to City Code Chapter 72, the Unified Development Ordinance, to modify the regulations for fences in all zoning districts. City Council refers this proposal to the Planning Commission for review, public hearing, and recommendation under the procedures set forth in City Code §72-22.1.

Votes:

Ayes: Greenlaw, Withers, Devine, Duffy, Ellis, Frye, Kelly

Nays: None

Absent from Vote: None

Absent from Meeting: None

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 16-82 duly adopted at a meeting of the City Council meeting held September 13, 2016, at which a quorum was present and voted.



Tonya B. Lacey, CMC
Clerk of Council